
Judiciary Committee

HB 1939

Title: An act relating to privileged communications.

Brief Description: Modifying privileged communications provisions.

Sponsors: Representatives Goodman, Warnick, Rodne, Williams, Priest, Moeller, B. Sullivan, Cody, Chase, Pedersen, Lantz and Hinkle.

Brief Summary of Bill
<ul style="list-style-type: none">Amends the clergy-penitent privilege to explicitly include sacred confidences made to a Christian Science practitioner.

Hearing Date: 2/16/07

Staff: Jasmine Vasavada (786-5793).

Background:

The judiciary has the power to compel witnesses to appear before the court and testify in judicial proceedings so that the court may hear and consider all relevant evidence before making a determination. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "testimonial privileges." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such societal importance that they should be protected, even at the expense of the truth-seeking goal of the courts.

Washington statutory law establishes a number of privileges, including communications between the following persons: (1) clergy and penitent; (2) attorney and client; (3) husband and wife; (4) physician and patient; (5) psychologist and client; (6) optometrist and client; (7) law enforcement peer support counselor and a law enforcement officer; and (8) sexual assault advocate and victim.

All 50 states have some form of recognized privilege for clergy-penitent communications. Of these, 21 states and the District of Columbia explicitly include a Christian Science practitioner within the statutory definition of clergy and afford them a sacred communication privilege.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The clergy-penitent privilege in Washington applies unless the person making the confession waives the privilege, authorizing the clergy to testify. Washington's statute does not explicitly refer to Christian Science practitioners and does not explicitly extend to sacred confidences, the term used by the Christian Science church for a confidence shared with a Christian Science practitioner, similar to a sacred or holy trust or confession.

The Christian Science church does not have ordained clergy but rather practitioners who have been accredited by the Church as qualified for the public practice of Christian Science. Only accredited practitioners may be listed and advertised in the Christian Science Journal, a monthly magazine that is the official publication of The First Church of Christ, Scientist.

Summary of Bill:

The testimonial privilege for confessions made to clergy is explicitly extended to sacred confidences made to a Christian Science practitioner in his or her professional role. The privilege only applies for sacred confidences made to a Christian Science practitioner who is officially listed in the Christian Science Journal, the monthly magazine of the Christian Science church.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.